

FILED

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Deputy Agency Clerk

Final Order No. DOH-17-0525- FOF -MQA

FILED DATE - MAR 08 2017  
Department of Health

By: 

DIVISION OF ADMINISTRATIVE HEARINGS  
STATE OF FLORIDA  
THE FLORIDA BOARD OF PHARMACY

DEPARTMENT OF HEALTH, PETITIONER,	CASE NO.: 2016-08209
VS.	DOAH CASE NO.: 16-4366PL
DEVONE LAMAR FLUCKER, RPT, RESPONDENT.	LICENSE NO.: RPT 64709

**FINAL ORDER**

This cause came before the FLORIDA BOARD OF PHARMACY (hereinafter Board), pursuant to Chapters 456; 465; and sections 120.569 and 120.57(1), *Florida Statutes*, at a duly noticed public meeting held on February 8, 2017, in Championsgate, Florida. The purpose of the cause was for consideration of the Honorable J. Lawrence Johnston's (hereinafter Administrative Law Judge or ALJ) Recommended Order issued on November 23, 2016 (attached hereto as Exhibit "A"). The department was present and represented by Christopher Jurich, Esquire. The Respondent and Respondent's counsel, Patricia A. Montgomery, Esquire, were not initially present when this cause was presented to the Board. However, before the conclusion of the meeting, both were present and the board recalled the cause.

Upon review of the Recommended Order (hereinafter RO), reviewing and hearing written and oral arguments from the parties, and after a review of the complete record in this case, the Board makes the following rulings, findings, and conclusions:

## I. RULINGS ON EXCEPTIONS

Neither parties to this cause filed exceptions to the Recommended Order.

## II. FINDINGS OF FACT

1. There is competent, substantial evidence to support the RO Findings of Fact.
2. Accordingly, the RO Findings of Facts, are hereby approved, adopted and incorporated herein by reference as the Findings of Fact of the Board.

## III. CONCLUSIONS OF LAW

1. The Board has personal jurisdiction, subject matter jurisdiction, and final order authority, in this cause pursuant to sections 120.569; 120.57(1); and Chapters 456 and 465, *Florida Statutes*.
2. The Board does not find a more reasonable interpretation of the law than that which was found by the Administrative Law Judge.
3. Accordingly, the Conclusions of Law as set forth in the Recommended Order are approved, adopted, and incorporated herein by reference as the Conclusions of Law of the Board.

## IV. VIOLATIONS

1. Based on the foregoing adopted Findings of Fact and the adopted Conclusions of Law, the Administrative Law Judge's recommendation is **ACCEPTED**.
2. Accordingly, Respondent is found in **VIOLATION** of section 465.016(1)(a), *Florida Statutes* by being guilty of obtaining his license by misrepresentation.

## V. DISCIPLINE

The Board accepts the recommendation of the ALJ.

**WHEREFORE**, it is hereby **ORDERED** and **ADJUDGED**, that the Respondent's license is hereby: **REVOKED**.

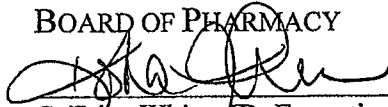
VI. MOTION TO ASSESS COSTS

The Board considered the Petitioner's Motion to Bifurcate and Retain Jurisdiction to Assess Costs. After review, the Petitioner's motion is hereby **GRANTED**, and the assessment of costs shall be determined at a later date upon proper motion of the Petitioner.

**DONE AND ORDERED** this 7 day of March, 2017.

**THIS FINAL ORDER SHALL BECOME EFFECTIVE UPON BEING FILED WITH THE AGENCY CLERK FOR THE DEPARTMENT OF HEALTH**

BOARD OF PHARMACY



C. Erica White, JD, Executive Director  
*on behalf of* Mark W. Mikhael, PharmD,  
Chair of the Board of Pharmacy

**NOTICE OF RIGHT TO JUDICIAL REVIEW**

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, *FLORIDA STATUTES*. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF HEALTH AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Certified Mail to **Devone Lamar Flucker**, 4654 Piedmont Court, Orlando, Florida 32811 and **Patricia A. Montgomery, Esquire**, Post Office Box 607662, Orlando, Florida 32860; and via US Mail to the **Honorable, J. Lawrence Johnston**, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; and by Electronic Mail to **Christopher Jurich**, Assistant General Counsel, Florida Department of Health, [christopher.jurich@flhealth.gov](mailto:christopher.jurich@flhealth.gov) ; and to **David D. Flynn**, Assistant Attorney General, [david.flynn@myfloridalegal.com](mailto:david.flynn@myfloridalegal.com) this 8 day of March, 2017.

*Amber Greene*

DEPUTY AGENCY CLERK

**Certified Article Number**

9414 7266 9904 2090 7581 01

**SENDERS RECORD**

||||| . . . . .  
Devone Lamar Flucker  
4654 Piedmont Court  
Orlando, FL 32811

**Certified Article Number**

9414 7266 9904 2090 7580 95

**SENDERS RECORD**

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Patricia Montgomery, Esq.  
PO Box 607662  
Orlando, FL 32860